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July 29, 1975

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ARIZONA ATTORNEY GENERAL

Mr. Harold L. Watkins
Deputy County Attorney
Coconino County Courthouse
Flagstaff, Arizona 86001

Dear Mr. Watkins:

This is in answer to your letter of January 3, 1975, forwarding a copy of your letter of December 16, 1974, addressed to Mr. David A. Williams, Superintendent, Flagstaff Public Schools, regarding the distribution of partisan political material on school property.

This office agrees with the opinion stated in your letter.

Sincerely,

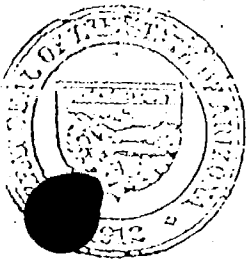
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December 16, 1974

Mr. David Williams
Superintendent of Schools
Flagstaff Public Schools
701 N. Kendrick Street
Flagstaff, Arizona 86001

Dear Dave:

In answer to your letter of October 15, 1974, to Harold Watkins requesting an opinion as to the validity of the Board's policy, to-wit: "partisan political material shall not be distributed on school property," and in answer to your specific question, to-wit: "Can the Board of Education/Trustees prohibit the distribution of partisan political material on school property, specifically distribution through mailboxes provided to employees by the School District?" - our opinion on these matters is that the Board cannot prohibit such use of the mailboxes and that the policy statement is invalid.

This opinion is based primarily on the 1969 California Supreme Court case cited in Milton Evan's letter to you dated September 25, 1974. I am enclosing a copy of the Court's opinion in that case. No Arizona cases this nearly in point could be found. I am of the opinion that Arizona would follow the California decision if the issue were tested in Court.

Specifically, it is our opinion that the Board may not prohibit teachers from distributing political materials, provided both the person distributing and the person receiving the materials are on non-duty hours at the time, and further provided that there is no great and substantial threat to order and efficiency in the school as a result of that distribution.

As a matter of general school administration, certainly the Board has the discretion of whether to provide teacher mailboxes at all, also the discretion as to the location and use of same by teachers, students and others, so long as First Amendment rights are not infringed upon in the establishment of mailbox policy. In other words, the Board does not have to provide faculty mailboxes, nor do they have to allow any use thereof that would disrupt the orderly administration of the school - such as, political caucusing in the mailroom, one teacher

forcing another teacher to take the hand-out, or "stuffing" of mailboxes.

I would be glad to appear before the Board with regard to this issue upon your request to do so.

Very truly yours,

William A. Flick

William A. Flick
Chief Deputy County Attorney

WAF:cr